

The Orissa Gazette



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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 26th March 2009

No. 3220—li/1(B)-80/2000 (Pt.)-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 19th February 2009 in Industrial Dispute Case No. 228 /2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s S. K. Exports (P) Ltd., 246, Lewis Road, Bhubaneswar and its Workman Shri Ramesh Chandra Das and 3 others was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 228 OF 2008

Dated the 19th February 2009

Present:

Shri P. C. Mishra, o.s.j.s. (Sr Branch),
Presiding Officer, Industrial Tribunal, Bhubaneswar.

Between:

The Managing Director, ... First Party—Management
M/s S. K. Exports (P) Ltd.,
246, Lewis Road,
Bhubaneswar.

And

Shri Ramesh Das, S/o. Markand, ... Second Party—Workman
and 3 others,
At. Barabati, P. O. Brahmania,
Via. Brahmagiri, Dist. Puri.

Appearances :

None	... For First Party—Management
Shri Ramesh Das, Shri Ratnakar Maria, Shri Ganesh Moharana & Shri Antara Gochhayat.	... The Second Party—Workmen themselves.

AWARD

Originally, the Government of Orissa in the Labour & Employment Department had referred the following dispute for adjudication by the Presiding Officer, Labour Court, Bhubaneswar vide its order No. 10201—li/1 (B)-80/2000/LE, dated 25th July 2000, but subsequently it transferred the dispute to be adjudicated by the Presiding Officer, Industrial Tribunal, Bhubaneswar vide its Order No. 4138—li/21-32/2007/LE., dated 4th April 2008.

“Whether the action of the management of M/s S. K. Exports (P) Ltd., by terminating the services of Shri Ramesh Das, Shri Ratnakar Maria, Shri Ganesh Moharana and Shri Antara Gochhayat, Processing Workmen w.e.f. the 5th May 1999 is legal and/or justified ? If not, what relief the above workmen are entitled to ?”

2. The case of the second part-workmen, in short is that they were all working as Processing Workmen in the Processing unit of M/s S. K. Exports (P) Ltd. (the first party-management) w.e.f. the 15th June 1996 on a monthly salary of Rs. 1450 each and their employment was continuous one up to the 5th May 1999. It is alleged that when they demanded their arrear salary from January, 1999 to April, 1999, the management though paid their salary but bore a grudge against them and refused employment to all of them w.e.f. the 6th May 1999 and did not allow any of them to work further. The workmen have stated that during the period of employment for about four years they have all rendered continuous and sincere service and as such, the refusal of employment made to them is neither legal nor justified in view of non-compliance of the provisions of Section 25-F of the Industrial Disputes Act by the management. In the background, therefore, they have all prayed for their reinstatement in service with full back wages.

3. Disputing the averments made in the claim statement, the management filed its written statement stating therein *inter alia* that the claimants in the present dispute were never the workmen of the management and therefore, the plea of refusal of employment made to them by the management does not arise at all and consequently their prayer in the present proceeding needs rejection.

4. On the basis of the pleadings of the parties, the following two issues have been framed :—

ISSUES

1. Whether the action of the management of M/s S. K. Exports (P) Ltd., by terminating the services of Shri Ramesh Das, Shri Ratnakar Maria, Shri Ganesh Moharana and Shri Antara Gochhayat, Processing Workmen w.e.f. the 5th May 1999 is legal and/or justified ?
2. If not, what relief the above workmen are entitled to ?

5. In the hearing of the dispute, the management did not participate for which it was set *ex parte* vide order No. 17, dated the 4th October 2004. The four concerned workmen submitted their evidence on affidavit and brought on record four documents, which have been marked Exts. 1 to 4.

6. All the workmen in their evidence on affidavit have fully corroborated the stand taken in the claim statement. Further the documents filed and proved in the proceeding marked Exts. 1 to 4, which are the copies of individual notices issued by the management to the workmen disclose that the management having aware of their claim has noticed them for a discussion and settlement of the matter. The evidence submitted on affidavit by the workmen having not been shaken in any manner, it is held that their refusal from service w.e.f. the 5th May 1999 by the management is neither legal nor justified in view of non-compliance of the provisions of Section 25-F of the Industrial Disputes Act, the action being held to be a 'retrenchment' within the meaning of Section 2(oo) of the Industrial Disputes Act.

7. In the result, therefore, the action of the management is held to be illegal and unjustified. Now coming to the question of relief, keeping in view the facts and circumstances of the case and the nature of job the workmen were performing under the management, it is found appropriate to award a compensation only in favour of the workmen and accordingly the management is directed to pay a lump sum amount of Rs. 15,000 (Rupees fifteen thousand only) to each of the workman concerned in the dispute in lieu of their reinstatement in service and back wages. The amount of compensation so awarded be paid to the workmen within a period of one month from the date of publication of the Award in the Official Gazette.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA
19-2-2009
Presiding Officer
Industrial Tribunal, Bhubaneswar

P. C. MISHRA
19-2-2009
Presiding Officer
Industrial Tribunal, Bhubaneswar

By order of the Governor
K. C. BASKE
Under-Secretary to Government